

TOWN OF ERVING
SEWER USE REGULATIONS

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TOWN OF ERVING
SEWER USE REGULATION

Pursuant to the provisions of Massachusetts General Laws Chapter 83, Section 10, the Town of Erving hereby establishes the following Regulations governing the use of the wastewater collection and treatment system of the Town of Erving.

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

These Regulations set forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Erving (the “Town”), and enable the Town to comply with all applicable requirements under Massachusetts and Federal law, including, without limitation, the Clean Water Act and the General Pretreatment Regulations promulgated thereunder at 40 C.F.R. Part 403; and Massachusetts General Laws Chapter 21 and the Pretreatment Regulations promulgated thereunder at 314 C. M. R. §§2.00, 7.00, and 12.00. The Town operates three Publicly Owned Treatment Works (“POTW”) under the National Pollutant Discharge Elimination System: POTW # 1 under Federal Permit No. MA 0101516 and State Permit No. M-22; POTW #2 under Federal Permit No. MA 0101052 and State Permit No. M-78; and POTW #3 under Federal Permit No. MA 0102776 and State Permit No. 202.

These Regulations shall apply to the Town of Erving and to persons who are, by contract, agreement, or permit with the Town, users of the Town of Erving’s POTW. These Regulations supersede in their entirety the “Rules and Regulations Governing the Use of Public Sewers As Amended October 7, 1985” and “Amendment No.2 to the Rules and Regulations Governing the Use of Public Sewers” adopted by the Town’s Board of Selectmen in 1985 and 1988. Except as otherwise provided herein, the Director of the Erving Department of Public works shall, pursuant

to the authorization of the Select Board of the Town of Erving, administer, implement, and enforce the provisions of these Regulations.

1.2 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in these Regulations shall have the meanings hereinafter designated:

- (a) Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., and the regulations promulgated thereunder, as amended from time to time.
- (b) Authorized Representative. An authorized representative of a User may be as follows:
 - (A) If the Industrial User is a corporation, authorized representative shall mean:
 - (1) The president, secretary, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (2) The manager of one or more manufacturing, production or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (B) If the Industrial User is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor.
 - (C) The individuals described in paragraphs (A) – (B) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Indirect Discharge originates or having

overall responsibility for environmental matters for the company, and the authorization is submitted to the Director.

(D) If the designation of an authorized representative under paragraph (C) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the Director prior to or together with any reports to be signed by an authorized representative.

- (c) Biochemical Oxygen Demand (“BOD”). The quantity of oxygen utilized in the biochemical oxidation of organic matter, under standard laboratory procedures in five (5) days at 20° centigrade, expressed in terms of milligrams per liter (mg/l), in the biochemical oxidation of organic matter under standard laboratory procedure.
- (d) Bypass. The intentional diversion of waste streams from any portion of an Industrial User’s treatment facility.
- (e) Cooling Water. The water discharged from any use, such as air conditioning, cooling, or refrigeration, to which the only Pollutant added is heat.
- (f) Consistent Removal. The reduction in the amount of a pollutant or alteration of the nature of a pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent, as set forth in 40 C.F.R. § 403.7.
- (g) Control Authority. The Town of Erving, as owner of the POTW, acting through the Director of the Town of Erving Department of Public Works.
- (h) Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Massachusetts.
- (i) Director. The Director of the Town of Erving Department of Public Works (“DPW”), designated by the Select Board of the Town to supervise the operation

of the POTWs, and who is charged with certain duties and responsibilities under these Regulations, or the Director's duly-authorized representative.

- (j) Division. The Director of the Water Management Division of the U. S. Environmental Protection Agency ("EPA"), and the Director of the Division of Water Pollution Control in the Massachusetts Department of Environmental Protection ("DEP"), established pursuant to M.G.L. c. 21, § 26.
- (k) Domestic Source. Any residence, building, structure, facility, or installation from which there is or may be discharged to a POTW only, sanitary sewage, in an amount less than two thousand (2,000) gallons per day, as determined in accordance with the Sewage Flow Estimate published at 314 C.M.R. § 7.15, which is incorporated herein by reference.
- (l) Garbage. Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.
- (m) Indirect Discharge. The discharge or the introduction into a POTW of pollutants from any source, other than a Domestic Source, regulated under section 307(b), (c), or (d) of the Act.
- (n) Industrial User. A source of Indirect Discharge or any source which discharges two thousand (2,000) or more gallons per day of sanitary sewage to a POTW.
- (o) Industrial Waste. Any liquid, gaseous, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.
- (p) Interference. A discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the POTW, its treatment processes or

operations, or its sludge processes, use or disposal and which is a cause of a violation of any requirement of the Town of Erving's NPDES Permits (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal by a POTW in accordance with applicable federal, state, or local statutes and regulations or permits issued thereunder, as set forth in 40 C.F.R. § 403.3(i).

- (q) National Pretreatment Standard or Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act which applies to Industrial Users, including prohibitive discharge limits established pursuant to 40 C.F.R. § 403.5.
- (r) New Source. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, as described in 40 C.F.R. § 403.3(m).
- (s) National Pollutant Discharge Elimination System or NPDES Permit. A permit issued under section 402 of the Act, 33 U.S.C. § 1342, and M.G.L. c. 21, § 43.
- (t) Pass Through. The discharge of pollutants through a POTW into navigable waters in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, are a cause of a violation of any requirement of the Town of Erving's NPDES Permits (including an increase in the magnitude or duration of a violation).

- (u) Person. Any individual, partnership, copartnership, firm, company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (v) pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (w) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
- (x) Pollution. The presence in the environment of conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant, or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life and property throughout such areas as may be affected thereby.
- (y) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutant into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 C.F.R. § 403.6(d).
- (z) Pretreatment Requirement. Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on a User.

- (aa) Publicly Owned Treatment Works (“POTW”). Any of the three treatment works, as defined by Section 212 of the Act, owned by the Town of Erving and known as the Erving Center Wastewater Treatment Plant, The Farley Wastewater Treatment Plant and the Miller Falls Wastewater Treatment Works. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes those sewers, pipes, and other conveyances only if they convey wastewater to a POTW. For the purposes of these Regulations, POTW shall also include any sewers that convey wastewaters to a POTW from persons who are, by permit, contract, or agreement with the Town.
- (bb) POTW Treatment Plant. That portion of a POTW designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.
- (cc) Sanitary Sewage. Liquid and water-carried human and domestic wastes from residences, commercial buildings, industrial plants and institutions, exclusive of ground, storm and surface water and exclusive of industrial wastes.
- (dd) Sanitary Sewer. A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- (ee) Severe Property Damage. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in

the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- (ff) Sewage. Spent water of a community. The preferred term is wastewater.
- (gg) Sewer. A pipe or conduit that carries wastewater.
- (hh) Sewerage system. Any device, equipment, or works used in the transportation, pumping, storage, treatment, recycling, and reclamation of sewage and industrial wastes.
- (ii) Shall is mandatory, May is permissive.
- (jj) Significant Industrial User. All Industrial Users subject to Categorical Pretreatment Standards, and any other Industrial User that discharges an average of 25,000 gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of a POTW treatment plant; or is designated as such by the Director on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation. The Director may at any time, upon his or her own initiative or in response to a petition received from an Industrial User, and in accordance with 40 C.F.R. § 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.
- (kk) Significant Noncompliance. An Industrial User is in Significant Noncompliance if its violation meets one or more of the following criteria as set forth at 40 C.F.R. § 403.8(f)(2)(viii):
 - (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken for the same

pollutant parameter during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits;

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under Section 6 to halt or prevent such a discharge;

(E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report non-compliance;

(H) Any other violation or group of violations which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

(II) Sludge. Waste containing varying amounts of solid contaminants removed from water, sanitary sewage, wastewater or industrial wastes by physical, chemical, and biological treatment.

(mm) Slug. Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill, non-customary batch discharge, or any discharge of wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than

five (5) times the average twenty-four (24) hour concentration or flow during normal operation, or which may adversely affect the sewerage system.

- (nn) Standard Industrial Classification (“SIC”). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended from time to time.
- (oo) Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting therefrom.
- (pp) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (qq) Town. The Town of Erving acting through its Select Board and Department of Public Works (“DPW”).
- (rr) Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under section 307(a) of the Act, or other acts; or in regulations promulgated under M.G.L. c. 21, including, but not limited, to 314 C.M.R. §§ 3.00, 7.00, and 12.00.
- (ss) User. Any Domestic Source or Industrial User which discharges wastewater to a POTW.
- (tt) Wastewater. The liquid and water-carried industrial, non-domestic or domestic wastes, including sewage, industrial waste, other wastes, or any combination thereof, from dwellings, commercial buildings, industrial facilities, and

institutions, together with any groundwater, surface water, and stormwater that may be present.

- (uu) Waters of the Commonwealth. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, border upon or are within the jurisdiction of the Commonwealth.
- (vv) Wastewater Discharge Permit or Permit. The document issued by the Town of Erving as set forth in Section 3.1 of these Regulations.

SECTION 2 - REGULATION OF WASTEWATER DISCHARGES

2.1 General Discharge Prohibitions

A person may not introduce into a POTW any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibition in Section 2.2 of these regulations apply to each person introducing pollutants into a POTW whether or not the person is subject to other National Pretreatment Standards or any national, state, or local Pretreatment Requirements.

2.2 Specific Discharge Prohibitions

Supplementing the provisions of Section 2.1, *supra*, and not by way of limitation, the following discharges to the POTW are specifically prohibited:

- (a) Any wastewater which causes the POTW to violate its NPDES permit.
- (b) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of

the POTW including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F or 60°C using the test method specified in 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor shall any single reading be more than ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel oil, crude oil, lubricating oils, any other oils or greases of hydrocarbon or petroleum origin, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, and any other substances which the Town, the Division or the EPA has notified the person is a fire hazard or a hazard to the system.

- (c) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the POTW such as, but not limited to: grease, garbage with articles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch, manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, rubber, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

- (d) Any wastewater having a pH lower than 5.0, or wastewater having any other-corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (e) Any wastewater containing toxic or objectionable Pollutants in sufficient quantity or concentration, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, to constitute a hazard to humans or animals, to create a toxic effect in the receiving waters of the POTW, or to exceed the limitations set forth in a National Pretreatment Standard, the Local Discharge Limitations prescribed herein at Section 2.5, or a Wastewater Discharge Permit issued pursuant to these Regulations. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act listed at 40 C.F.R. Part 403, App. B.
- (f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums to be unsuitable for disposal in a permitted landfill. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; or with any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, or state criteria applicable to the sludge management method being used.
- (g) Any pollutants, including oxygen demanding pollutants (BOD. etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference to the POTW.

- (h) Any wastewater having a temperature which will inhibit biological activity in the POTW resulting in Interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F).
- (i) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits necessary to comply with applicable state or federal regulations.
- (j) Any industrial wastes which are hauled or transported to the POTW by truck, dedicated pipe, or rail, except wastes disposed of pursuant to a permit.
- (k) Any sludges or deposited solids resulting from an industrial pretreatment process.

2.3 National Categorical Pretreatment Standards

Upon the promulgation of National Categorical Pretreatment Standards for a particular industrial subcategory, the Pretreatment Standard, if more stringent than limitations imposed under these Regulations, shall immediately supersede, for Users in that subcategory, the limitations imposed under these Regulations. The National Categorical Pretreatment Standards found at 40 C.F.R. Chapter I, subchapter N, Parts 471, are hereby incorporated into these regulations. The Director shall notify all affected Users of the applicable requirements under the Act; 314 C.M.R. §§ 2.00, 7.00 and 12.00; and subtitles C and D of the Resource Conservation and Recovery Act.

2.4 Modification of National Categorical Pretreatment Standards

Pursuant to 40 C.F.R. § 403.7, where the POTW achieves consistent removal of pollutants limited by a National Categorical Pretreatment Standard, the Town may apply to the Division for modification of the discharge limits for a specific pollutant covered in the relevant National Categorical Pretreatment Standards in order to reflect the POTW's ability to remove said pollutant. The Town may modify pollutant discharge limits contained in a National

Categorical Pretreatment Standard only if the requirements of 40 C.F.R. § 403.7 are fulfilled and prior approval from the Division is obtained.

2.5 Local Discharge Limitations

No person shall discharge wastewater containing any pollutant specified in Schedule A, annexed hereto and incorporated herein by reference, in excess of the limitations for each of said pollutants as specified in said Schedule A. Compliance with the provisions of this Section 2.5 shall be assessed on the basis of samples of the person's wastewater discharge collected at each point of connection between the person's building, structure, facility or installation and the Town's sewerage system. If a National Categorical Pretreatment Standard establishes limitations for Users in a particular industrial subcategory which are more stringent than the limitations specified in Schedule A, those more stringent limitations shall immediately apply to those Users subject to that National Categorical Pretreatment Standard. Compliance with National Categorical Pretreatment Standard limitations shall be assessed in accordance with the requirements set forth at 40 C.F.R. § 403.12(b)(5).

2.6 State Requirements

Requirements and limitations on discharges set by the DEP shall apply in any case where they are more stringent than federal requirements and limitations or those contained in these Regulations.

2.7 Town's Right of Revision

The Town reserves the right to establish by amendment to these Regulations more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 1.1 of these Regulations.

2.8 Dilution Prohibited in Absence of Treatment

Except where expressly authorized to do so by an applicable National Categorical

Pretreatment Standard or Requirement, no User shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance either with the limitations contained in any National Categorical Pretreatment Standard or Requirement, or in any other pollutant specific discharge limitation developed by the Town or the Division.

2.9 Pretreatment

Each User shall provide necessary wastewater treatment as required to comply with these Regulations, including the Local Discharge Limitations set forth in Schedule A hereto, and shall achieve compliance with all applicable National Categorical Pretreatment Standards within the time limitations specified by said Standards. Any facilities required to pretreat wastewater to a level which will achieve compliance with these Regulations shall be provided, operated, and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director, whose consent will not be unreasonably withheld, before construction of the facility. The Director shall submit her/his determination within thirty (30) days of submission of a complete application. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent which complies with the provisions of these Regulations, or from liability for compliance with Pretreatment Standards or Requirements and with these Regulations. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Director prior to the User's initiation of the changes.

All records relating to compliance with applicable Pretreatment Standards and Requirements shall be made available to officials of the EPA or the Division upon request. In addition, pursuant to the public participation requirements of 40 C.F.R. Part 25, the Town shall

annually publish in the Greenfield Recorder and the Athol Daily News a list of the Users which, during the preceding twelve (12) months, were in Significant Noncompliance with Pretreatment Standards or Requirements.

2.10 Bypass

(a) Bypass not Violating Applicable Pretreatment Standards or Requirements

An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (b) and (c) of this section.

(b) Notice

- (1) Anticipated Bypass: If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Director, if possible at least ten (10) days before the date of the bypass.
- (2) Unanticipated Bypass: An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Director within twenty-four (24) hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written

report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(c) Prohibition of Bypass

(1) Pursuant to 40 CFR 403.17, bypass is prohibited and the Director may take enforcement action against an Industrial User for a bypass, unless:

(i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The Industrial User submitted notices as required in paragraph (a) of this section.

(2) Approval: The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (c)(1) of this section.

2.11 Accidental Discharges

(a) Plans and Procedures: Each Industrial User shall provide protection from accidental discharge of prohibited materials or other substances regulated by these Regulations. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or Industrial User's own cost and

expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director for review and shall be approved by the Director before construction of the facility.

All existing Industrial Users shall submit such a plan within sixty (60) days of the effective date of these Regulations. No Industrial User who commences discharging into the POTW after the effective date of these Regulations shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Director. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the User's facility as necessary to meet the requirements of these Regulations. In the case of an accidental discharge, it is the responsibility of the Industrial User to telephone immediately and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and any and all corrective actions.

- (b) Written Notice: Notice five (5) days following an accidental discharge, the Industrial User shall submit to the Director a detailed written report describing the cause of the discharge and the measures which have been and shall be taken by the User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons, animals or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by these Regulations or other applicable law.

- (c) Notice to Employees: A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur, or who may know or have reason to know thereof, are advised of the emergency notification procedures.

SECTION 3 - PERMITS

3.1 Wastewater Discharge Permits

All Users proposing to connect to or discharge into the POTW shall obtain a Sewer Connection Permit before connecting to or discharging into the POTW. An Application for said Sewer Connection Permit shall be filed with the Director at least ninety (90) days prior to the proposed connection or discharge to the POTW.

All existing Industrial Users connected to or discharging into the POTW shall apply for an Industrial Discharge Permit within sixty (60) days after the effective date of these Regulations.

3.2 Permit Application Requirements

All Users required to obtain a Sewer Connection Permit or an Industrial Discharge Permit shall complete and file with the Director an application in the form prescribed by the Director, and accompanied by the appropriate fee as indicated on the application and on the fee schedule annexed hereto as Schedule B. In support of the application for an Industrial Discharge Permit, the Industrial User shall submit, in units and terms appropriate for evaluation, the following information:

- (a) Name, Address, and location of the User (if different from the address);

- (b) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (c) Wastewater constituents and characteristics, including, but not limited to, those mentioned in Section 2 of these Regulations, as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 C.F.R. Part 136, as amended, and results of said sampling and analysis, identifying the nature and concentration of regulated pollutants contained in each regulated discharge stream, shall be attached as Exhibits to the application; provided, however, that the Director may, in his discretion, waive the requirement for laboratory analysis with respect to those Users which discharge only sanitary sewage to the POTW in the amount equal to or exceeding two thousand (2,000) gallons per day;
- (d) Time and duration of discharges;
- (e) Average daily and maximum daily wastewater flow rates, identified separately by regulated discharge streams, and including daily, monthly, and seasonal variations, if any;
- (f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by size, location, and elevation;
- (g) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged;
- (h) Where known, the nature and both daily maximum and average concentrations of any pollutants in the discharge which are limited by any Town or state discharge standard or by any applicable National Categorical Pretreatment Standards and a statement regarding whether or not any applicable Pretreatment Requirement or Standard is being met on a consistent basis and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet the applicable Pretreatment Standard or Requirement;
- (i) If additional pretreatment and/or O&M will be required to meet the above-described Standards or Requirements, the shortest schedule by which the User will provide such additional pretreatment or O&M, which shall not be later than the compliance date established for the applicable Pretreatment Standard or Requirement;

The following conditions shall apply to this schedule:

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standard or Requirement (e.g., hiring an engineer, completing preliminary plans, completing final plans,

executing contract for major components, commencing construction, completing construction).

- (2) No increment referred to in Paragraph 1 shall exceed nine (9) months.
 - (3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director.
- (j) Each product produced by the User, if any, by type, amount, process or processes and rate of production;
 - (k) Type and amount of raw materials processed by the User (average and maximum per day);
 - (l) Number and type of User's employees, User's hours of operation and proposed or actual hours of operation of pretreatment system;
 - (m) Any other information as may be deemed by the Director to be necessary to evaluate the permit application.

The Director will evaluate the data furnished by the Industrial User and may require additional information. After evaluation and acceptance of the data furnished, the Director may issue an Industrial Discharge Permit subject to terms and conditions provided herein.

The Director shall issue his decision either, to grant or to deny a permit within sixty (60) days of receipt of a complete Industrial User's application.

If the Director denies the issuance of an Industrial Discharge Permit he shall issue a written decision setting forth his reasons therefor. Such denial shall be without prejudice to the applicant regarding the correction of any deficiencies set forth in the denial. Correction of such deficiencies may be achieved without the requirement of resubmittal of the application.

Such denial shall be reviewable by the Town of Erving Select Board upon request of the Industrial User whose permit application was denied. Such request shall be made within thirty

(30) days of the Industrial User's receipt of the notice of denial of the permit. The Select Board shall conduct the review of the Director's denial of the permit in accordance with the procedures set forth at Section 6.5 of these regulations.

3.3 Permit Conditions

Sewer Connection Permits and Industrial Discharge Permits shall be expressly subject to all provisions of these Regulations and all other applicable regulations, User charges, and fees established by the Town. In addition, Industrial Discharge Permits may contain the following:

- (a) The unit charge or schedule of User charges and fees for the wastewater to be discharged to the POTW;
- (b) Limits on average and maximum wastewater constituents and characteristics, including those determined in accordance with the limits specified in Schedule A;
- (c) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (d) Requirements for installation and maintenance of inspection and sampling facilities;
- (e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (f) Compliance schedules (but in no event may a compliance deadline in a Permit be later than a National Categorical Pretreatment Standard compliance deadline);
- (g) Requirements for submission of technical reports or discharge reports;
- (h) Requirements for maintenance and retention of records relating to wastewater discharges as specified by the Town, and affording the Town access thereto

- (i) Requirements for advance notification to the Town of any change in operations, and for advance approval by the Director of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater disposal system;
- (j) Requirements or notification to the Town of slug discharges;
- (k) A statement of Permit duration in accordance with Section 3.5 hereof, and in no case more than five years;
- (l) A statement of Permit transferability in accordance with Section 3.6 hereof;
- (m) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule, in accordance with Section 7 hereof; and
- (n) Other conditions as deemed appropriate by the Town to ensure compliance with these Regulations.

3.4 Permit Modifications

- (a) Necessitated By Promulgation of National Categorical Pretreatment Standard:
Within ninety (90) days of the promulgation of a National Categorical Pretreatment Standard, the Industrial Discharge Permit of Users who are subject to such Standards shall be revised to require compliance with such Standard within the time frame prescribed by such Standard. A User with an existing Industrial Discharge Permit shall submit to the Director within forty five (45) days after the effective date of an applicable National Categorical Pretreatment Standard the baseline report required by Section 4.1(a) of these Regulations and 40 C.F.R. § 403.12.

- (b) Necessitated By Change in Wastewater Discharge: Any User who proposes to introduce a change in the nature, characteristics or constituents of its wastewater, or who proposes to increase its discharge so that the daily volume, strength, or rate of its discharge is at least ten percent (10%) greater than its permitted discharge shall, no less than thirty (30) days prior to said proposed change or increase, apply on a form prescribed by the Director, for a modification to its Industrial Discharge Permit. After evaluation and acceptance of the data furnished, the Director may modify the User's Industrial Discharge Permit, subject to the terms and conditions provided herein, if such changed wastewater discharges do not meet applicable Pretreatment Standards and Requirements or where such changed wastewater discharges would cause the POTW to violate its NPDES permit.
- (c) Necessitated By Change In Applicable Limitations or Requirements: The terms and conditions of an Industrial Discharge Permit issued hereunder may be subject to modification by the Director during the duration of the Permit as the limitations or requirements of these Regulations are modified or amended. The User shall be notified of any proposed modifications or amendments to its Industrial Discharge Permit at least thirty (30) days prior to the proposed effective date of such modification. Any modifications or amendments to the Industrial Discharge Permit shall include a reasonable time schedule for compliance therewith, but no compliance deadline therein shall be later than the deadline for compliance with an applicable National Categorical Pretreatment Standard.

The Director shall set forth the reasons for his decision to modify or

amend the Industrial User's Discharge Permit in writing. Such modification or amendment shall be reviewable by the Town of Erving Select Board upon request of the Industrial User whose permit may be modified or amended. Such request shall be made within thirty (30) days of receipt of the notice of proposed modification or amendment. The Select Board shall conduct the review of the proposed modification or amendment of the permit in accordance with the procedures set forth at Section 6.5 of these regulations.

3.5 Duration of Permits

Industrial Discharge Permits shall be issued for a specified time period not to exceed five (5) years. An Industrial Discharge Permit may be issued for a period less than a year or may be stated to expire on a specific date. A User shall apply for Industrial Discharge Permit reissuance, on a form prescribed by the Director, at least ninety (90) days prior to the expiration of the User's existing Permit. Sewer Connection Permits are exempt from this reapplication requirement, as long as the subject connection has been constructed, effected, and maintained in accordance with said Permit. Any modification, increase in flow, or change in use of said connection is not exempt and shall be the subject of a Sewer Connection Permit application pursuant to Section 3.2.

3.6 Permit Transfer

Industrial Discharge Permits are issued to a specific User for a specific operation. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without the approval of the Director, whose consent shall not be unreasonably withheld, and whose approval must be obtained at least thirty (30) days in advance of the proposed transfer date. No such approval shall be granted absent submission to the Director of a written agreement between the existing and proposed new

permittee which sets forth the date for and terms of the transfer of the Industrial Discharge Permit and all responsibilities, obligations, and liabilities thereunder. The Director shall consent to a transfer if, in his opinion, both the transferor and transferee are in compliance with all federal, state, and local laws and regulations. Any succeeding owner or User shall comply with the terms and conditions of the existing Industrial Discharge Permit and all of the terms and requirements of these Regulations.

The Director shall set forth the reasons for his decision to deny the transfer of the Industrial User's Discharge Permit in writing. Such denial shall be reviewable by the Town of Erving Select Board upon request of the Industrial User whose permit transfer was denied. Such request shall be made within thirty (30) days of the Industrial User's receipt of the notice of denial of the proposed transfer. The Select Board shall conduct the review of the Director's denial of the proposed permit transfer in accordance with the procedures set forth at Section 6.5 of these regulations.

3.7 Sewer Connection Specifications

- (a) A separate and independent building sewer shall be provided for every building. However, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear of the building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- (b) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director, to meet all requirements of these Regulations.

- (c) The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- (d) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement door. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (e) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (f) The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing code or other applicable rules and regulations of the Town, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Director before installation.

- (g) The applicant for the Sewer Connection Permit shall notify the Director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director or his representative.
- (h) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.
- (i) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

SECTION 4 - REPORTING REQUIREMENTS
MONITORING, AND INSPECTIONS

4.1 Reporting Requirements

- (a) Baseline Report: Within one hundred eighty (180) days following the effective date of a National Categorical Pretreatment Standard, an existing Industrial User subject to said Standard and currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report as prescribed under 40 C.F.R. § 403.12(b), which shall include the information required under Section 3.2(a), (b), (c), (e), (g), (h), (i), and (j) of these Regulations. This report shall be signed by an Authorized Representative of the User, and contain a statement certified by a qualified professional engineer indicating whether Pretreatment Standards are being met on a consistent basis and, if not, whether additional operation and

Maintenance (O&M) and or additional pretreatment is required for the Industrial User to meet the retreatment Standards and Requirements.

At least ninety (90) days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the Director a report which contains the information required in Section 3.2 (a), (b), (c), (e), (g), (h), and (j) of these Regulations. Reports by New Sources shall include information on the method of pretreatment the New Source intends to use to meet applicable Pretreatment Standards. The report shall be signed by an Authorized Representative of the User, and contain the certification described above.

- (b) Compliance Schedule Progress Reports: If the certification statement described in paragraph 4.1(a), above, states that additional pretreatment and/or operation and maintenance (O&M) will be required to meet the Pretreatment Standards and Requirements, the industrial User shall submit to the Director a compliance schedule as described in paragraph 3.2(i) hereof. Not later than fourteen (14) days following each date in the compliance schedule and the final date for compliance, the Industrial User shall submit a progress report to the Director as prescribed under 40 C.F.R. § 403.12(c) stating, at a minimum, whether or not the Industrial User complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for the delay; and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director.

- (c) Compliance Deadline Report: Within ninety (90) days following the date for final compliance with any applicable Pretreatment Standards or Requirements or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any see subject to Pretreatment Standards or Requirements shall submit to the Director a report as prescribed under 40 C.F.R. § 5403-12(d), indicating the nature and concentration of all pollutants in the discharge which are limited by Pretreatment Standards or Requirements, and the average and maximum daily flow of the wastewater containing such pollutants. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This report shall be signed by an Authorized Representative of the User, and be certified by a qualified professional engineer. The Director may require such follow-up reports as he seems necessary to monitor the actions taken by the User to come into compliance with the applicable Pretreatment Standards or Requirements.
- (d) Periodic Continued Compliance Reports: Any User subject to a Pretreatment Standard or Requirement, after the compliance date for such Pretreatment Standard or Requirement, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Director during the months of June and December, unless required more frequently in the applicable Pretreatment Standard or Requirement or by the Director, a report as prescribed under 40 C.F.R. § 403.12(e) containing the results of sampling and analysis of

the discharge, indicating the average and maximum daily flows and nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standard or Requirement. At the discretion of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Director may agree to alter the months during which the above reports are to be submitted. The reports shall be signed by an Authorized Representative of the Industrial User and shall contain the certification described in Section 4.1(a) above.

(e) Reports by Significant Industrial Users Not Subject to Pretreatment Standards:

Any Significant Industrial User which is not subject to Pretreatment Standards or Requirements shall submit to the Director, during the months of June and December (unless required more frequently by the Director), a report as prescribed under 40 C.F.R. § 403.12(h) describing the nature, concentration, and amount of those pollutants specified by the Director.

(f) Notification of Hazardous Waste Discharge:

(i) An Industrial User shall notify the Director, the EPA Regional Waste Management Division Director, and the Director of DEP's Division of Solid and Hazardous Waste, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification shall include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the

POTW, the notification shall also contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass constituents in the wastestream expected to be discharged during the following twelve (12) months.

All existing Industrial Users must file such notifications by February 19, 1991. All Industrial Users who commence discharging after August 23, 1990 shall file the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic waste. Any notification under this Section 4.1(f) need be submitted only once for each hazardous waste discharged.

However, all Industrial Users must notify the Director in advance, in accordance with Section 3.4(b) of these Regulations, of any change in their wastewater discharge. The notification requirement set forth herein does not apply to any pollutants already reported under the self-monitoring requirements set forth in Sections 4.1(a), (b), (c), (d), and (e), above.

(ii) Industrial Users are exempt from the requirements of Section 4.1(f)(i), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous waste as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the

Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(iii) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and the Director of DEP's Division of Solid and Hazardous Waste of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(iv) In the case of any notification made under this Section 4.1(f), an Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(g) Notifications of Potential Problems: All Users notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings by the Industrial User.

4.2 Monitoring and Analysis

The reports required in Sections 4.1 and 3.2(c) and (h), *supra*, and such other reports as the Director may require under these Regulations, shall contain the results of all sampling and analysis of the Industrial User's discharge, including the how and the nature and concentration of pollutants contained therein which are limited by applicable Pretreatment standards and Requirements, as well as other required sampling. If the Industrial User's sampling indicates a permit violation, the User must notify the Director within twenty-four (24) hours of becoming aware of such violation. The User must resample and report these results to the Director within

thirty (30) days of becoming aware of the violation. The Industrial User is not required to resample if:

- (1) the Director performs sampling at the Industrial User at a frequency of at least once per month, or
- (2) the Director performs sampling at the Industrial User between the time when the Industrial User performs its initial sampling and the time when said User receives the results of the sampling.

The frequency of monitoring shall be prescribed in the Industrial Discharge Permit and, for Industrial Users subject to National Categorical Pretreatment Standards, shall not be less frequent than prescribed in Section 4.1(c). All analyses shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 C.F.R. Part 136 and amendments thereto, or with any other test procedures approved by the EPA. Sampling shall be performed in accordance with the techniques approved by the EPA. Where 40 C.F.R. Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties approved by the EPA.

An Industrial User subject to the reporting requirements set forth in Section 4.1, *supra*, shall maintain records of all information resulting from any monitoring activities required thereunder. Such records shall include, for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (b) The dates analyses were performed;

- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

The Industrial User shall keep copies of all such records and records of monitoring activities and results for a minimum of three (3) years, and shall make such records available for inspection and copying by EPA, DEP, and the Director. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Industrial User or the operation of the POTW pretreatment program, or when requested by DEP or EPA.

However, the Town may determine that it will undertake all or some of the monitoring responsibilities of the User pursuant to Section 4.1 of these regulations. If the Town collects all of the information required for one or all of the reports, including flow data, the Industrial User will not be required to submit the report or the compliance certification required in said report. If the Town assumes only some of the monitoring responsibilities, the Industrial User must be required to monitor, report and certify any information the Town does not collect.

4.3 Monitoring Facilities

The Town shall require the Industrial User to provide and operate, at the Industrial User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the Industrial User's premises, but the Town may, when such a location would be impractical or cause undue hardship on the Industrial User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Industrial User.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Town's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification to the Industrial User by the Town.

4.4 Inspection and Sampling

The Town shall inspect, at least once per year, the facilities of any Industrial User to ascertain whether the purpose and requirements of these Regulations are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the Town or its representative ready access to all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying, or the performance of any of their duties. The Town, Division, and EPA shall have the right to set up on the User's property as such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the Town, Division, and EPA will be permitted to enter, without delay, for the purposes or performing their specific responsibilities.

At least once every two (2) years, the Director shall evaluate whether each Significant Industrial User needs a plan to control slug discharges. The Significant Industrial User shall

comply with the provisions of any such slug control plan which the Director determines to be necessary, including, but not limited to:

- (a) a description of discharge practices, including non-routine batch discharges;
- (b) a description of stored chemicals;
- (c) procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 C.F.R. § 403.5(b), with procedures for follow-up written notification; and
- (d) if necessary, procedures to prevent adverse impact from accidental spills, including those procedures set forth in 40 C.F.R. § 403.8(f)(2)(v)(D).

4.5 Confidential Information

In accordance with 40 C.F.R. § 403.14 and 314 C.M.R. § 2.11, any information and data concerning a User which is contained in or obtained from reports, questionnaires, Permit applications, Permits, monitoring programs, and inspections shall be available to the public and governmental agencies without restriction, unless the User specifically claims, and is able to demonstrate to the satisfaction of the Director, that the release of such information, would divulge information, processes or methods of production entitled to protection as trade secrets of the User. Any such claim of confidentiality must be asserted at the time of submission in the manner prescribed on the application form or instructions or by stamping or writing the words “CONFIDENTIAL BUSINESS INFORMATION” on each page containing such information. If no claim is made, the Director may make the information available to the public without further notice.

Notwithstanding any claim of confidentiality, any information and data provided to the Director which is effluent data, as defined at 40 C.F.R. § 2.303, (including, but not limited to, wastewater constituents and characteristics), shall be available to the public without restriction.

All other information and data shall be available to the public at least to the extent provided by 40 C.F.R. § 2.302.

Information accepted by the Director as confidential shall not be made available for inspection by the public, except as provided by 40 C.F.R. § 2.302 but shall be made available upon written request to governmental agencies for uses related to these Regulations, the National Pollutant Discharge Elimination System (NPDES) Permit, DEP permit, and the industrial pretreatment program; provided, however, that such portions of a report shall be available for use by the State or any state agency, the Town, or by the United States or EPA in criminal or civil judicial or administrative enforcement proceedings involving the User. Information accepted by the Director as confidential shall not be transmitted to any governmental agency prior to the expiration of ten (10) calendar days following the date on which notification of said proposed transmittal is sent to the User.

SECTION 5 - FEES

5.1 Charges and Fees

It is one of the purposes of these Regulations to provide for the recovery of costs from persons who use the Town's wastewater disposal system in order to implement the programs established herein. The Town may adopt charges and fees which may include:

- (a) fees for reimbursement of the costs of setting up and operating the Town's pretreatment program;
- (b) fees for monitoring, sampling, inspections and surveillance procedures;
- (c) fees for reviewing accidental discharge procedures and construction;
- (d) fees for Permit applications and modifications;

- (e) fees for consistent removal, by the Town, of pollutants otherwise subject to National Categorical Pretreatment Standards;
- (f) fees for Sludge disposal;
- (g) other fees as the Town may deem necessary to carry out the requirements contained herein.

5.2 Assessment of Charges and Fees

The applicable charges or fees for the items enumerated in Section 5.1, *supra*, shall be set from time to time by the Town, and shall be assessed via the Town's general water and sewer use rate or on a fee-for-specific-service basis, in accordance with a schedule duly adopted by the Town and annexed hereto as Schedule B.

SECTION 6 - ENFORCEMENT

6.1 Imminent Endangerment

The Director may immediately halt or prevent any discharge of pollutants which reasonably appears to present an imminent endangerment to the health or welfare of persons. In the event that the Director determines that a discharge of pollutants reasonably appears to present an imminent endangerment to the health or welfare of persons, the Director shall provide informal (oral or written) notice of said determination to the discharger. Said discharger shall immediately stop or eliminate such discharge and shall submit written proof of the elimination of the discharge to the Director within forty-eight (48) hours of receipt of notice of the Director's determination. If said person fails voluntarily to halt such discharge, the Director shall take such actions as he deems necessary to prevent or minimize endangerment to the health or welfare of persons. Such actions include, but are not limited to, seeking ex parte temporary injunctive relief, entry on private property to halt such discharge, severance of the sewer connection,

suspension of wastewater disposal service, suspension or revocation of a Sewer Connection Permit or Industrial Discharge Permit, and instituting of legal action. After such discharge has been halted, the Director may take such other and further actions provided under this Section as may be necessary to ensure elimination of said discharge and compliance with the terms of these Regulations and any Sewer Connection Permits or Industrial Discharge Permits issued hereunder.

6.2 Harmful Discharges

The Director may, in accordance with the procedures set forth in Section. 6.4, *infra*, halt or prevent any discharge of pollutants which:

- (a) presents or may present an endangerment to the environment;
- (b) threatens to interfere with the operation of the POTW;
- (c) threatens to cause the POTW to violate any condition of its NPDES permit; or
- (d) is otherwise in violation of these Regulations, applicable state or federal regulations, or the terms, conditions, and requirements of any Sewer Connection Permit or Industrial Discharge Permit issued hereunder.

6.3 Revocation of Permit

Any User who violates the following conditions of these Regulations, or applicable state and federal regulations, is subject to having its Sewer Connection Permit or Industrial Discharge Permit revoked in accordance with the procedures set forth in Section 6:

- (a) Failure of an Industrial User to report factually the wastewater constituents and characteristics of its discharge;
- (b) Failure of a User to report significant changes in its operations, or the constituents and characteristics of its wastewater;
- (c) Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring; or,
- (d) Violation of conditions of the User's Permit.

6.4 Notice of Violation

Whenever the Director determines that any person has caused a discharge of pollutants described in Section 6.2 or has engaged in conduct prohibited in Section 6.3 above in violation of these Regulations, applicable state and federal regulations, or any Permit issued hereunder, the Director shall serve upon such person, either personally or by mail, a written notice stating the nature of the violation. In addition, said Notice of violation shall contain one or both of the following:

- (a) Compliance Order: The Director may issue a Compliance Order directing the person to take specified actions to comply with these Regulations or the provisions of any applicable Permit within a time schedule set forth by the Director. The Compliance Order may provide for the pursuit in a court of competent jurisdiction of civil penalties as prescribed in Section 7, *infra*, and may provide that the person's wastewater disposal service and/or Industrial Discharge Permit shall be suspended pending submission of proof satisfactory to the Director that specified violations of these Regulations or the Permit have been abated or corrected. An Industrial User may seek review of the Compliance Order upon application to the Select Board within thirty (30) days of the issuance of the Compliance Order. Any such review shall be noticed and conducted in accordance with the provisions of Section 6.5, *infra*.
- (b) Order to Show Cause: The Director may order any person who has caused a discharge of pollutants described in Sections 6.1 and 6.2 or has violated the conditions of Section 6.3, *supra*, to show cause before the Select Board why the proposed enforcement action should not be taken. Any such Show Cause Hearing

shall be noticed and conducted in accordance with the provisions of Section 6.5, *infra*.

6.5 Review by the Select Board

- (a) Notice Requirements: The hearing shall be held as soon as reasonably possible but not later than thirty (30) days after either the issuance of an Order to Show Cause or the Industrial User's application for review of a Compliance Order or the decision to deny, modify, or decline to transfer an Industrial Discharge Permit. A notice shall be served on the person specifying the time and place of a hearing before the Select Board, and directing the person to submit reasons before the Select Board showing why the proposed enforcement action or decision should not be taken. The notice of the hearing shall be served at least ten (10) days before the hearing, in person, by registered or certified mail (return receipt requested), or may be included in the Order to Show Cause. Service must be made on an Authorized Representative of a corporation.
- (b) Conduct of the Hearing: The Select Board shall conduct the hearing and take the evidence, or may designate any of its members or the Town Manager to:
 - (i) Issue in the name of the Select Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (ii) Take evidence;
 - (iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Select Board for action thereon; and

- (iv) Take any further necessary action as permitted by these Regulations or by the Town's By-Laws and Ordinances.
- (c) Testimony Recorded Under Oath: At any hearing held pursuant to these Regulations, testimony taken must be under oath and recorded, either stenographically or by voice recording. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the initial charges therefor.
- (d) Orders: After the Select Board have reviewed the evidence, it may issue an order affirming, modifying, or rescinding its decision concerning denial, modification, or transfer of an Industrial Discharge Permit. The Select Board may also issue an order to the person responsible for the discharge directing that its wastewater disposal service be discontinued or its Industrial Discharge Permit revoked or suspended immediately, or following a specified time period if adequate treatment facilities, devices, or other related appurtenances have not been installed or existing treatment facilities, devices, or other related appurtenances are not properly operated so as to correct or eliminate the discharge. Orders may also contain such other requirements and directives as are necessary and appropriate to address the violation or noncompliance, including the Town's pursuit of an assessment of civil penalties by a court of competent jurisdiction, and the User's installation of pretreatment technology, performance of additional self-monitoring, and implementation of specified management practices.

6.6 Legal Action

If any person discharges sewage, industrial wastes, or other wastes into the POTW contrary to the provisions of these Regulations, any applicable federal, state, or local

pretreatment requirements, the conditions and requirements of any Sewer Connection Permit or Industrial Discharge Permit issued hereunder, or any order of the Director or Select Board, the Town Counsel may commence an action for appropriate legal and/or equitable relief in either state or federal court.

6.7 Defenses

Industrial Users are entitled to all affirmative defenses set forth in the federal pretreatment regulations, 40 CFR Part 403.

6.8 Judicial Review

Any actions taken by the Select Board pursuant to these Regulations shall be reviewable by an action in the nature of certiorari. See M.G.L. c. 249, § 4.

SECTION 7 - PENALTIES AND COSTS

Any person who violates an Order of the Select Board or fails to comply with any provisions of these Regulations or the orders, rules, regulations and Permits issued hereunder, may be assessed a civil penalty of up to Five Thousand Dollars (\$5,000) per day for each violation. A criminal penalty may also be imposed consistent with state law. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. Town Counsel may, at the direction of the Select Board, pursue the assessment of the civil penalties prescribed herein by a court of competent jurisdiction. In addition to the penalties provided herein, the Town may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate legal action, against the person found to have violated these Regulations or the orders, rules, regulations, and Permits issued thereunder.

SECTION 8 - SEVERABILITY

If any provision, paragraph, word, section, or article of these Regulations is invalidated

by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

SECTION 9 - CONFLICT

All other regulations, ordinances and bylaws, and any parts thereof, which are inconsistent or conflict with any part of these Regulations are hereby repealed to the extent of such inconsistency or conflict.

SECTION 10 - EFFECTIVE DATE

These Regulations shall be in full force and effect from and after the tenth day following their publication and filing with the Town Clerk of the Town of Erving.

APPROVED this 11th day of September 1990

/s/ Edward G. Kavanaugh
Chairman, Board of Selectmen
Town of Erving

AMENDED, AFFIRMED AND RATIFIED this 29th day of July 2010

Andrew N. Goodwin, Chairman
Town of Erving Board of Selectmen

ATTEST: _____ (Seal) Town Clerk

Filed the _____ day of _____, 2010

Published the _____ of _____, 2010

SCHEDULE A

Local Discharge Limitations

- | | | |
|----|--|---|
| 1. | <u>For Discharge to Erving Center Wastewater Treatment Plan</u> | <u>Type of Limit</u> |
| a. | pH – Not less than 5.5 and not greater than 9.5 | Instantaneous |
| b. | Flow 2.0 mgd
4.0 mgd
6.0 mgd | Monthly Average
Daily Maximum
Instantaneous |
| c. | BOD 25,000 lbs/day
40,000 lbs/day | Monthly Average
Daily Maximum |
| d. | TSS 70,000 lbs/day
110,000 lbs/day | Monthly Average
Daily Maximum |
| 2. | <u>For Discharges to Miller Falls Wastewater Treatment Works</u> | <u>Type of Limit</u> |
| a. | pH – not less than 5.5 and not greater than 9.5 | Instantaneous |
| b. | Pentachlorophenol 0.18 mg/L (see attached Fact Sheet for Derivation) | Daily Maximum |
| c. | Trichlorophenol 0.057 mg/L (see attached Fact Sheet for Derivation) | Daily Maximum |
| d. | Flow 0.43 mgd
0.86 mgd
1.60 mgd | Monthly Average
Daily Maximum
See Note A |
| e. | BOD 2,400 lbs/day
3,600 lbs/day | Monthly Average
Daily Maximum |
| f. | TSS 4,500 lbs/day
9,000 lbs/day | Monthly Average
Daily Maximum |